

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1031

Introduced by Senator Corbett

February 12, 2010

~~An act to relating to medicine. An act to add Article 17.1 (commencing with Section 2399) to Chapter 5 of Division 2 of, and to repeal Section 2399.7 of, the Business and Professions Code, relating to medicine.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1031, as amended, Corbett. Medical malpractice insurance: volunteer physicians and surgeons.

Under existing law, the Medical Practice Act, the Medical Board of California is responsible for the certification and regulation of physicians and surgeons. Existing law requires the board, in conjunction with the Health Professions Education Foundation, to study the issue of providing medical malpractice insurance to volunteer physicians and surgeons and to report its findings to the Legislature by January 1, 2008.

~~The bill would declare the intent of the Legislature to implement the findings of that study~~ create the Volunteer Insured Physicians Program, administered by the board, to provide specified medical malpractice insurance coverage to volunteer physicians providing uncompensated care to low-income patients pursuant to a contract with a qualified health care entity, as defined. The bill would provide unspecified funding for the program from the Contingent Fund of the Medical Board of California for a limited period of time. The bill would require annual reports to the Legislature until January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Article 17.1 (commencing with Section 2399) is*
2 *added to Chapter 5 of Division 2 of the Business and Professions*
3 *Code, to read:*

4
5 *Article 17.1. Volunteer Insured Physicians Program*
6

7 2399. This article shall be known and may be cited as the
8 Volunteer Insured Physicians (VIP) Act, which authorizes the
9 creation and implementation of the Volunteer Insured Physicians
10 (VIP) Program.

11 2399.1. (a) For purposes of this article, the following
12 definitions shall apply:

13 (1) "Licensee" means the holder of a physician and surgeon's
14 certificate who is engaged in the professional practice authorized
15 by the certificate under the jurisdiction of the board.

16 (2) "Volunteer physician" means a licensee under this chapter
17 who volunteers to provide primary care medical services, as
18 described in Section 2399.3, to a low-income patient, with no
19 monetary or material compensation.

20 (3) "Qualified health care entity" means a county health
21 department, hospital district, or hospital or clinic owned and
22 operated by a governmental entity.

23 (4) "Low-income patient" means a person who is without health
24 care coverage and whose family income does not exceed 200
25 percent of the federal poverty level, as defined annually by the
26 federal Office of Management and Budget.

27 (5) "Voluntary service agreement" means an agreement
28 executed pursuant to this article between the board, a licensee,
29 and a qualified health care entity that authorizes the health care
30 entity to enter into a voluntary service contract with the licensee.

31 (6) "Voluntary service application" means the written
32 application developed by the board that a licensee must complete
33 and submit in order to be considered for participation in the VIP
34 Program.

35 (7) "Voluntary service contract" means an agreement executed
36 pursuant to this article between a licensee and a qualified health
37 care entity that authorizes the licensee to deliver health care

1 *services to low-income patients as an agent of the qualified health*
2 *care entity on a volunteer, uncompensated basis.*

3 2399.2. (a) *A licensee who wants to provide voluntary,*
4 *uncompensated care to low-income patients, but who does not*
5 *have medical professional liability insurance that would include*
6 *insurance coverage for premiums, defense, and indemnity costs*
7 *for any claims arising from voluntary and uncompensated care,*
8 *may submit a voluntary service application to the board for*
9 *coverage under the VIP Program.*

10 (b) *A licensee who submits an application for a waiver of initial*
11 *and renewal licensing fees under Section 2083 or 2442 and who*
12 *also submits a voluntary service application shall be*
13 *simultaneously assessed by the board for eligibility to receive*
14 *medical professional liability insurance coverage for premiums,*
15 *defense, and indemnity costs through the VIP Program.*

16 (c) *A licensee who has standard medical professional liability*
17 *insurance coverage for his or her regular practice but who is not*
18 *covered for volunteer service may submit a voluntary service*
19 *application to participate in the VIP Program. In conjunction with*
20 *the voluntary service application, the licensee shall submit*
21 *verification from his or her medical professional liability insurance*
22 *carrier that voluntary, uncompensated care is not covered by his*
23 *or her existing medical professional liability insurance policy.*

24 (d) *The board shall review the voluntary service application to*
25 *determine if the applicant meets the criteria for VIP Program*
26 *participation. These criteria shall include both of the following:*

27 (1) *Holding an active license in good standing to practice*
28 *medicine in the State of California.*

29 (2) *No record of disciplinary action by the board or any other*
30 *regulatory board.*

31 (e) *Continued eligibility for the VIP Program shall be reassessed*
32 *by the board during each license renewal cycle.*

33 2399.3. (a) *Licensees approved by the board for participation*
34 *in the VIP Program may enter into a voluntary service agreement*
35 *with the board and a qualified health care entity that acknowledges*
36 *the terms of the VIP Program and transfers responsibility from*
37 *the volunteer physician to the state for medical professional*
38 *liability insurance, including premiums, defense, and indemnity*
39 *costs, for voluntary, uncompensated medical care that is provided*
40 *in accordance with an executed and signed voluntary service*

1 contract between the volunteer physician and the qualified health
2 care entity and that complies with the terms of the VIP Program.

3 (b) Volunteer physicians participating in the VIP Program shall
4 agree to limit the scope of the volunteer medical care to primary
5 care medical services.

6 (c) The voluntary service contract between the volunteer
7 physician and the qualified health care entity shall include all of
8 the following provisions:

9 (1) All care provided shall be both voluntary and uncompensated
10 and shall be provided to low-income patients.

11 (2) Patient selection and initial referral shall be made solely
12 by the qualified health care entity and the volunteer physician
13 shall accept all referred patients except as otherwise allowed by
14 law. However, the number of patients that must be accepted may
15 be limited by the voluntary service contract and patients may not
16 be transferred to the volunteer physician based on a violation of
17 any antidumping provisions of the Omnibus Budget Reconciliation
18 Act of 1989 (P.L. 101-239) or the Omnibus Budget Reconciliation
19 Act of 1990 (P.L. 101-508).

20 (3) The qualified health care entity shall have access to the
21 patient records of the volunteer physician delivering services under
22 the voluntary service contract.

23 (4) The volunteer physician shall be subject to supervision by
24 the qualified health care entity's standard peer review process
25 and all related laws regarding peer review, including, but not
26 limited to, the filing of reports pursuant to Section 805.

27 (5) The qualified health care entity shall utilize a quality
28 assurance program to monitor services delivered by the volunteer
29 physician under the voluntary services contract.

30 (6) The right to dismiss or terminate a volunteer physician
31 delivering services under the voluntary service contract shall be
32 retained by the qualified health care entity. If the volunteer services
33 contract is terminated, the qualified health care entity shall notify
34 the VIP Program in writing within five days.

35 2399.4. The fact that a volunteer physician is insured under
36 the VIP Program in relation to particular medical services
37 rendered shall not operate to change or affect the laws applicable
38 to any claims arising from or related to those medical services.
39 All laws applicable to a claim remain the same regardless of
40 whether a licensee is insured through the VIP Program.

1 2399.5. *If a volunteer physician covered by the VIP Program*
2 *receives notice or otherwise obtains knowledge that a claim of*
3 *professional medical negligence has been or may be filed, the*
4 *physician shall immediately notify the VIP Program or the*
5 *contracted liability carrier.*

6 2399.6. *All costs for administering the VIP Program, including*
7 *the cost of medical professional liability insurance for premiums,*
8 *defense, and indemnity coverage for program participants, shall*
9 *be paid for from the Contingent Fund of the Medical Board of*
10 *California, in an amount not to exceed _____ dollars (\$____) per*
11 *year.*

12 2399.7. (a) *The board shall report annually to the Legislature*
13 *summarizing the efficacy of access and treatment outcomes with*
14 *respect to providing health care services for low-income patients*
15 *pursuant to this article. The report shall include the numbers of*
16 *injuries and deaths reported, claims statistics for all care rendered*
17 *under the VIP Program, including the total of all premiums paid,*
18 *the number of claims made for each year of the VIP Program, the*
19 *amount of all indemnity payments made, the cost of defense*
20 *provided, and administration costs associated with all claims made*
21 *against volunteer physicians arising from voluntary and*
22 *uncompensated care provided under the VIP Program.*

23 (b) (1) *A report to be submitted pursuant to subdivision (a)*
24 *shall be submitted in compliance with Section 9795 of the*
25 *Government Code.*

26 (2) *Pursuant to Section 10231.5 of the Government Code, this*
27 *section is repealed on January 1, 2015.*

28 2399.8. *This article shall remain operative until January 1,*
29 *2016, or until another viable source of funding is identified and*
30 *adopted, whichever occurs first.*

31 ~~SECTION 1. It is the intent of the Legislature to implement~~
32 ~~the findings of the study described in Section 2023 of the Business~~
33 ~~and Professions Code, relating to providing medical malpractice~~
34 ~~insurance to physicians and surgeons who provide voluntary,~~
35 ~~unpaid services.~~